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असाधारण

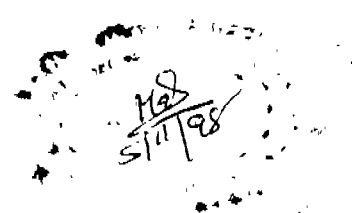
EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## MINISTRY OF LAW AND JUSTICE (Legislative Department)

*New Delhi, the 25th April, 1998/Vaisakha 5, 1920 (Saka)*

### THE ESSENTIAL COMMODITIES (AMENDMENT) ORDINANCE, 1998

No. 13 OF 1998

Promulgated by the President in the Forty-ninth Year of the  
Republic of India

An Ordinance further to amend the Essential Commodities Act, 1955.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:--

1. (1) This Ordinance may be called the Essential Commodities (Amendment) Ordinance, 1998.

(2) It shall come into force at once.

Short title and  
commence-  
ment

Amendment of  
section 2.

2. In section 2 of the Essential Commodities Act, 1955, (hereinafter referred to as the principal Act),—

(a) clause (ia) shall be re-numbered as clause (iia), and before clause (iia) as so re-numbered, the following clause shall be inserted, namely:—

(ia) "Code" means the Code of Criminal Procedure, 1973; and

2 of 1974

(b) in clause (a), sub-clause (iii) shall be omitted;

(c) after clause (e), the following clause shall be inserted, namely:—

"(f) words and expressions used but not defined in this Act and defined in the Code shall have the meanings respectively assigned to them in that Code."

Amendment of  
section 3

3. In section 3 of the principal Act,—

(i) in sub-section (2), to clause (j), the following proviso shall be inserted, namely:—

"Provided that where a person authorised under an order issued under this section to make the entry, search, examination or seizure is below the rank of a Magistrate of the first class or its equivalent, he shall obtain prior permission of an officer not below the rank of a Magistrate of the first class or its equivalent before making such entry, search, examination or seizure."

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

(2A) An order made under this section may provide for certain allowance for difference between physical stock and stock in record of any essential commodity which may occur due to climatic conditions or handling of the essential commodity."

Amendment of  
section 6A

4. In section 6A of the principal Act, for the proviso to sub-section (2), the following proviso shall be substituted, namely:—

"Provided that, in case of any essential commodity the retail sale price whereof has been fixed by the Central Government or a State Government under this Act or under any other law for the time being in force and which is being sold through fair price shops, the Collector may, for its equitable distribution and availability at fair prices, order the same to be sold through fair price shops at the price so fixed."

Amendment of  
section 7

5. In section 7 of the principal Act,—

(a) in sub-section (1), in clause (a),—

(i) for sub-section (i), the following sub-clause shall be substituted, namely:—

"(i) in the case of an order made with reference to clause (h) or clause (i) of sub-section (2) of that section, with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both:

Provided that, if any person is again convicted of the same offence under this sub-clause, he shall be punishable with imprisonment for the second and for every subsequent offence for a term which shall not be less than three months but which may extend to one year and with fine which may extend to twenty thousand rupees or with both:

Provided further that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three months;"

(ii) in sub-clause (ii), for the words "seven years and shall also be liable to fine", the words "two years and shall also be liable to fine which shall not be less than twenty-five thousand rupees" shall be substituted;"

(b) in sub-section (2), for the words "seven years and shall also be liable to fine", the words "two years and shall also be liable to fine which shall not be less than twenty-five thousand rupees" shall be substituted;

(c) in sub-section (2A), for the words "seven years and shall also be liable to fine", the words "two years and shall also be liable to fine which shall not be less than fifty-thousand rupees" shall be substituted.

6. For section 10A of the principal Act, the following section shall be substituted, namely:—

Amendment of section 10A

"10A. Notwithstanding anything contained in the Code, every offence punishable under—

Provision as to cognizance and bill

(a) this Act shall be cognizable;

(b) this Act, except under sub-clause (h) or sub-clause (i) of clause (a) of sub-section (1) of section 7, shall be non-bailable;

(c) sub-clause (h) or sub-clause (i) of clause (a) of sub-section (1) of section 7, if committed more than once, shall be non-bailable for the second and every subsequent offence."

7. After section 10A of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 10AA.

"10AA. Notwithstanding anything contained in the Code, no officer below the rank of sub-inspector of police shall arrest any person accused of committing an offence punishable under this Act."

Power to arrest.

8. Section 12 of the principal Act shall be omitted.

Omission of section 12.

9. For section 12A of the principal Act, the following sections shall be substituted, namely:—

Substitution of new section for section 12A

'12A. (1) The State Government may, for the purpose of providing speedy trial of the offences under this Act, by notification in the Official Gazette, constitute as many Special Courts as may be necessary for such area or areas as may be specified in the notification.

Constitution of Special Court

(2) A Special Court shall consist of a single judge who shall be appointed by the High Court upon a request made by the State Government.

*Explanation.*—In this sub-section, the word "appoint" shall have the meaning given to it in the *Explanation* to section 9 of the Code.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless—

(a) He is qualified for appointment as a Judge of a High Court, or

(b) he has, for a period of not less than one year, been a Sessions Judge or an Additional Sessions Judge.

12AA. (1) Notwithstanding anything contained in the Code,—

Offences triable by special courts.

(a) all offences under this Act shall be triable only by the Special Court constituted for the area in which the offence has been committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court;

(b) a Special Court may, upon a perusal of police report of the facts constituting an offence under this Act or upon a complaint made by an Officer of the Central Government or a State Government authorised in this behalf by the Government concerned or any person aggrieved or any recognised consumer association, whether such person is a member of that association or not, take cognizance of that offence without the accused being committed to it for trial;

(c) all offences under this Act shall be tried in a summary way and the provisions of section 262 to 265 (both inclusive) of the Code shall, as far as may be, apply to such trial:

Provided that in the case of any conviction in a summary trial under this Section, it shall be lawful for the Special Court to pass a sentence of imprisonment for a term not exceeding two years.

(2) When Trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act, with which the accused may, under the Code, be charged at the same trial:

Provided that such other offence is, under any other law for the time being in force, triable in a summary way:

Provided further that in the case of any conviction for such other offence in such trial, it shall not be lawful for the Special Court to pass a sentence of imprisonment for a term exceeding the term provided for conviction in a summary trial under such other law.

(3) A Special Court may, with a view to obtaining the evidence of any person suspected to have been directly or indirectly concerned in, or privy to, an offence under this Act, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof and any pardon so tendered shall, for the purposes of section 308 of the Code, be deemed to have been tendered under section 307 thereof.

Appeal and  
revision.

12AB. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Sessions trying cases within the local limits of the jurisdiction of the High Court.

Application of  
Code to  
proceedings  
before a Special  
Court

12AC. Save as otherwise provided in this Act, the provisions of the Code (including the provisions as to bail and bonds) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Sessions and the person conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor.

Repeal and  
saving

10. (1) The Essential Commodities (Special Provisions) Second Ordinance, 1998 is hereby repealed.

Ord. 1 of  
1998

(2) Notwithstanding such repeal, if any appeal, application, trial, inquiry or investigation is pending immediately before such repeal, then, such appeal, application, trial, inquiry or investigation shall be disposed of, continued, held or made, as the case may be, in accordance with the provisions of the principal Act as amended by the Essential Commodities (Special Provisions) Ordinance, 1998 as in force immediately before the commencement of this Ordinance, as if, this Ordinance had not come into force.

K. R. NARAYANAN,  
*President.*

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RAGHBIR SINGH,  
*Secy. to the Govt. of India.*

